

(3) The application contained deliberately inaccurate or incomplete information; or

(4) The holder knowingly has violated the terms of the approval or an applicable requirement of this chapter in a manner demonstrating lack of fitness to conduct the activity for which the approval is required.

(c) Except as provided in paragraph (d) of this section, before an approval is modified, suspended or terminated, the Associate Administrator notifies the holder in writing of the proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder may file a written response with the Associate Administrator within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder in writing of the final decision with a brief statement of reasons.

(d) The Associate Administrator, if necessary to avoid a risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective.

#### § 107.715 Reconsideration.

(a) An applicant or a holder may request that the Associate Administrator reconsider a decision under § 107.709(f) or § 107.713(c). The request must:

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the request to reconsider; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing.

(c) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision.

#### § 107.717 Appeal.

(a) A person who requested reconsideration under § 107.715 may appeal to the Administrator the Associate Administrator's decision on the request. The appeal must:

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the appeal; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action effective pending a decision on appeal.

(c) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision on appeal. The Administrator's decision on appeal is the final administrative action.

### Subpart I—Approval of Independent Inspection Agencies, Cylinder Requalifiers, and Non-domestic Chemical Analyses and Tests of DOT Specification Cylinders

SOURCE: 67 FR 51639, Aug. 8, 2002, unless otherwise noted.

#### § 107.801 Purpose and scope.

(a) This subpart prescribes procedures for—

(1) A person who seeks approval to be an independent inspection agency to perform cylinder inspections and verifications required by parts 178 and 180 of this chapter;

(2) A person who seeks approval to engage in the requalification (*e.g.*, inspection, testing, or certification), rebuilding, or repair of a cylinder manufactured in accordance with a DOT specification under subchapter C of this chapter or under the terms of an exemption issued under this part;

(3) A person who seeks approval to perform the manufacturing chemical analyses and tests of DOT specification or exemption cylinders outside the United States.

(b) No person may engage in a function identified in paragraph (a) of this section unless approved by the Associate Administrator in accordance with the provisions of this subpart. Each person must comply with the applicable requirements in this subpart. In addition, the procedural requirements in subpart H of this part apply to the filing, processing, and termination of an approval issued under this subpart.

**§ 107.803 Approval of independent inspection agency.**

(a) *General.* Prior to performing cylinder inspections and verifications required by parts 178 and 180 of this chapter, a person must apply to the Associate Administrator for an approval as an independent inspection agency. A person approved as an independent inspection agency is not an RSPA agent or representative.

(b) *Criteria.* No applicant for approval as an independent inspection agency may be engaged in the manufacture of cylinders for use in the transportation of hazardous materials, or be directly or indirectly controlled by, or have a financial involvement with, any entity that manufactures cylinders for use in the transportation of hazardous materials, except for providing services as an independent inspector.

(c) *Application information.* Each applicant must submit an application in conformance with § 107.705 containing the information prescribed in § 107.705(a). In addition, the application must contain the following information:

- (1) Name and address of each facility where tests and inspections are to be performed.
- (2) Detailed description of the inspection and testing facilities to be used by the applicant.
- (3) Detailed description of the applicant's qualifications and ability to perform the inspections and to verify the inspections required by part 178 of this chapter or under the terms of an exemption issued under this part.
- (4) Name, address, and principal business activity of each person having any direct or indirect ownership interest in the applicant greater than three percent and any direct or indirect owner-

ship interest in each subsidiary or division of the applicant.

(5) Name of each individual whom the applicant proposes to employ as an inspector and who will be responsible for certifying inspection and test results, and a statement of that person's qualifications.

(6) An identification or qualification number assigned to each inspector who is supervised by a certifying inspector identified in paragraph (c)(3) of this section.

(7) A statement that the applicant will perform its functions independent of the manufacturers and owners of the cylinders.

(8) The signature of the person certifying the approval application and the date on which it was signed.

(d) *Facility inspection.* Upon the request of the Associate Administrator, the applicant must allow the Associate Administrator or the Associate Administrator's designee to inspect the applicant's facilities and records. The person seeking approval must bear the cost of the inspection.

**§ 107.805 Approval of cylinder requalifiers.**

(a) *General.* A person must meet the requirements of this section to be approved to inspect, test, certify, repair, or rebuild a cylinder in accordance with a DOT specification under subpart C of part 178 or subpart C of part 180 of this chapter or under the terms of an exemption issued under this part.

(b) *Independent Inspection Agency Review.* Each applicant must arrange for an independent inspection agency, approved by the Associate Administrator pursuant to this subpart, to perform a review of its inspection or requalification operation. The person seeking approval must bear the cost of the inspection. A list of approved independent inspection agencies is available from the Associate Administrator at the address listed in § 107.705. Assistance in obtaining an approval is available from the same address.

(c) *Application for approval.* If the inspection performed by an independent inspection agency is completed with satisfactory results, the applicant must submit a letter of recommendation from the independent inspection